

AEC/TOVCC  
Final Comments to be incorporated into DFFO  
December 13, 2011

- **Ponds**

- EPA: seeks assurance that compliance sampling at ponds is representative and that operation and maintenance is sufficient to mitigate discharge of pollutants.
- OEPA: does not believe it has legal authority to address sampling configuration/design unless the facility is exceeding effluent limits or other permit requirements because of pond configuration.

Recommended Injunctive Relief

- The facility should be required to improve its flow monitoring procedures as provided in the EPA document “Performing Quality Flow Measurements at Mine Sites”, (September 2001, EPA/600/R-01/043) – it is a basic permit compliance requirement that sampling should be representative.
- The facility should provide updated as-built plans to OEPA/ODNR that accurately depict current pond designs and supporting documentation that ponds have been constructed, operated and maintained in accordance with an approved ODNR-DMRM coal mining permit. All NPDES permits require general O&M provisions and OEPA’s general permit (III.B.7) contains language requiring ponds to be “constructed... in accordance with approved ODNR-DMR coal mining permit” .

- **Discharge without a permit from disturbed areas adjacent to AEC Ponds 013 and 014.**

- EPA: area is considered “active mining” and run-off is then considered process, should be captured by the ponds and subject to effluent limits.
- OEPA: appears to believe that this area is covered by general storm water regulations and has required BMPs as solution.

Recommended Injunctive Relief

- Run-off from these areas should be directed to ponds and be subject to categorical standards.

- **Construction Storm Water Permits** – The facility did not apply for construction storm water permit for Lucas power line area until required by OEPA.

Recommended Injunctive Relief

- DFFO should include language that requires the facility to apply for permits for future areas disturbed by construction.

- **Coal spillage along 16-miles of railroad tracks.**

Recommended Injunctive Relief

- DFFO requires clean-up but should also require that the facility document and report the measures implemented to correct the situation and prevent future occurrence.